

## MEMORANDUM

DATE: June 29, 2007

TO: Ms. Sharon L. Summers, DMMA  
Policy and Program Development Unit

FROM: Daniese McMullin-Powell, Chairperson  
State Council for Persons with Disabilities

RE: 10 DE Reg. 1780 [Pediatric Nursing Facility Reimbursement Regulations]

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Health and Social Services/Division of Medicaid and Medical Assistance's (DMMA) proposal to establish Medicaid reimbursement standards for pediatric nursing facilities. The proposed regulations were published as 10 DE Reg. 1781 in the June 1, 2007 issue of the Register of Regulations. As background, SCPD commented on a previous version of these regulations in November 2006 [10 DE Reg. 798 (November 1, 2006)]. As background, attached please find January 6, 2002 and November 11, 2005 News Journal articles. As the articles indicate, there were major problems with adequacy of care in a pediatric nursing home in 1988-1999. The DLTCRP issued comprehensive pediatric nursing home standards in 2002. See 6 DE Reg. 79 (July 1, 2002). The 2002 article indicates that low reimbursement rates deter facilities from accepting children. SCPD has the following observations.

First, SCPDs strong preference is keeping children out of nursing homes if adequate care is available in community-based settings. The "Summary of Proposal" indicates that nursing home placement is not contemplated for children who qualify for PPEC services. SCPDs view is that the availability of pediatric nursing home care not be considered preferable to other day programs such as the First State School. Finally, please see that attached Executive Summary from the Children with Significant Health Issues Task Force which recommends the establishment of Medical Neighborhood Homes and other alternatives to nursing home care.

Second, the rate adjustment standards are rather anemic. Rates for each level of care are computed "for a base year and may be inflated each year thereafter using a nationally recognized inflation index". Use of an appropriate index merits endorsements since it is simple and does not require extensive assessment. However, there is no requirement of reassessment of rates nor any indication that annual reassessment will be a norm. In other contexts, DMMA has required rebasing at least every three (3) years. See attached 6 DE Reg. 885, 886 (January 1, 2003)[inpatient hospital care]. Providers often complain that the State establishes a base rate and then continues to reimburse based

on that rate for several years without adjustment. It would be preferable to amend the regulation with the following italicized sentence:

Rates for each level of care shall be computed for a base year and may be inflated each year thereafter using a nationally recognized inflation index. *At a minimum, such rebasing shall occur at least every three years.*

Third, for similar reasons, it would be preferable to establish 2007 as the base year. As written, the State could adopt a 2005 base year which would artificially depress the reimbursement rate.

Fourth, SCPD endorses the “special case” authorization in the last paragraph of the regulations. Medically involved children are not “fungible” and may require individualized consideration beyond an assessment of skilled or super-skilled services eligibility.

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our observations on the proposed regulation.

cc: The Honorable Robert I. Marshall  
The Honorable Margaret Rose Henry  
The Honorable Pamela S. Maier  
Mr. Harry Hill  
Nursing Home Residents Quality Assurance Commission  
Governor’s Advisory Council for Exceptional Citizens  
Developmental Disabilities Council

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